2011 SENATE BILL 573

March 15, 2012 - Introduced by Senators LASSA and VINEHOUT, cosponsored by Representatives JORGENSEN, ROYS, TURNER and RINGHAND. Referred to Committee on Senate Organization.

AN ACT to amend 16.705 (2); and to create 16.42 (1) (h), 16.42 (1) (i) and 16.46 (10) of the statutes; relating to: state contractual services and cost–benefit analyses.

Analysis by the Legislative Reference Bureau

This bill requires executive branch state agencies, except for the Department of Transportation (DOT) and the University of Wisconsin System (UW System), to submit to the Department of Administration (DOA) and the Legislative Fiscal Bureau, by September 15 of each even-numbered year, and requires the secretary of administration to include in the biennial budget report, all of the following:

1. Information on the number of contracted positions, including the number of service hours and recurring service rate payments, providing services for the agency that are paid from the agency’s base level funding and an identification of the appropriation or appropriations used to fund the contracted positions.

2. The total amount of agency base level funding used to pay for the contracted positions; and the amount of funding requested for contracted positions and an identification of the appropriation or appropriations that will be used to fund the contracted positions.

3. Information on cost–benefit analyses or continued appropriateness analyses, including whether the agencies contracted for the services or used a state employee and the actual cost of completing the services.

This bill requires DOT and the UW System to submit to DOA and the Legislative Fiscal Bureau, by September 15 of each even-numbered year, and
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requires the secretary of administration to include in the biennial budget report, the total amount budgeted and requested for contract expenditures, an identification of the appropriation or appropriations used to fund the contract expenditures, and the total amount of base level funding used to pay for the contract expenditures.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 16.42 (1) (h) of the statutes is created to read:

16.42 (1) (h) Except for the department of transportation and the University of Wisconsin System, all of the following:

1. The total amount of contracted positions, including the number of service hours and recurring service rate payments, providing services for the agency that are paid from the agency’s base level funding and an identification of the appropriation or appropriations used to fund the contract expenditures. In preparing this information, agencies shall use actual salary and service hour data, if available. If such data are not available, the agency may use estimates. Any estimate relying on state employee salary data for comparable work shall be accompanied by a detailed statement explaining why the use of state employee salary data is necessary and why such use does not misrepresent the salaries paid for contracted positions.

2. The total amount of agency base level funding used to pay for the contracted positions under subd. 1.

3. The amount of funding requested for contracted positions identified under subd. 1. and an identification of the appropriation or appropriations that will be used to fund the contracted positions.
4. If the agency conducts a cost–benefit analysis under s. 16.705 (2) (a) for services to be provided for the agency that are paid from the agency’s base level funding, all of the following:

   a. Whether the cost–benefit analysis resulted in use of contractual services or the services of a state employee and the factors the agency used in making that determination.

   b. If the agency contracted for the services, the cost provided in the contract and, whether the services were done by contract or by state employee, the actual cost to the agency of completing the services.

5. If the agency conducts a continued appropriateness analysis under s. 16.705 (2) (a) for services to be provided for the agency that are paid from the agency’s base level funding, the factors the agency used to determine whether to continue the contractual services or use a state employee and any difference in cost between the previous continued appropriateness analysis, if one exists, or the original cost–benefit analysis, if no previous continued appropriateness analysis has been done, and the current continued appropriateness analysis.

**Section 2.** 16.42 (1) (i) of the statutes is created to read:

16.42 (1) (i) For the department of transportation and the University of Wisconsin System, the total amount budgeted and requested for contract expenditures, an identification of the appropriation or appropriations used to fund the contract expenditures, and the total amount of base level funding used to pay for these contract expenditures.

**Section 3.** 16.46 (10) of the statutes is created to read:

16.46 (10) (a) Except as provided in par. (b), all of the following:
1. A statement of the number of contracted positions providing services for each state agency that are paid from the agency’s base level funding and an identification of the appropriation or appropriations used to fund the contracted positions.

2. A statement of the total amount of each state agency’s base level funding used to pay for the contracted positions.

3. A statement of the amount of funding requested by state agencies for contracted positions and an identification of the appropriation or appropriations that will be used to fund the contracted positions.

(b) For purposes of this subsection, only the information specified in s. 16.42 (1) (i) is required for the department of transportation and the University of Wisconsin System.

(d) If the state agency conducts a cost–benefit analysis under s. 16.705 (2) (a) for services to be provided for the agency that are paid from the agency’s base level funding, all of the following:

1. A statement on whether the cost–benefit analysis resulted in the state agency using contractual services or the services of a state employee and the factors the state agency used in making that determination.

2. If the state agency contracted for services, the cost provided in the contract and, whether the services were done by contract or by state employee, the actual cost to the state agency of completing the services.

(e) If the state agency conducts a continued appropriateness analysis under s. 16.705 (2) (a), the factors the state agency used to determine whether to continue the contractual services or to use a state employee to perform the services and any difference in cost between the previous continued appropriateness analysis, if one
exists, or the original cost–benefit analysis, if no previous continued appropriateness analysis has been done, and the current continued appropriateness analysis.

**SECTION 4.** 16.705 (2) of the statutes is amended to read:

16.705 (2) (a) The department shall promulgate rules for the procurement of contractual services by the department and its designated agents, including but not limited to rules prescribing approval and monitoring processes for contractual service contracts, a requirement for agencies to conduct a uniform cost–benefit analysis of each proposed contractual service procurement involving an estimated expenditure of more than $25,000 in accordance with standards prescribed in the rules, and a requirement for agencies to review periodically, and before any renewal, the continued appropriateness of contracting under each contractual services agreement involving an estimated expenditure of more than $25,000.

(b) Each officer requesting approval to engage any person to perform contractual services shall submit to the department written justification for such contracting which shall include a description of the contractual services to be procured, justification of need, justification for not contracting with other agencies, a specific description of the scope of contractual services to be performed, and justification for the procurement process if a process other than competitive bidding is to be used. **Each officer shall also provide any information needed to comply with s. 16.42 (1) (h) 4. and 5.**

(c) The department may not approve any contract for contractual services unless it is satisfied that the justification for contracting conforms to the requirements of this section and ss. 16.71 to 16.77.